IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4485 OF 2004

Vasant Narayan Birdavde .... Petitioner
Vs.
Smt. Leelavati S. Kale & Ors. .... Respondents

Mr. G.S. Godbole for the Petitioner
Mr. Mandar Limaye for the Respondent nos. 1 and 2.

CORAM : R.M. SAVANT, J.
DATE : 13TH JUNE, 2007

P.C.

1) This petition takes exception to the order dtd. 25/6/1999 passed by the learned 5th Additional District Judge, Pune in Miscellaneous Civil Application no. 64 of 1999. By the said order, the appeal filed by the petitioner has been dismissed. The petitioner is the original defendant in RCS No. 14 of 1999. In the said suit, an interim temporary injunction came to be granted against the petitioner, against which the petitioner had filed the said appeal.

2 An Affidavit has been filed by the petitioner dtd. 9th June 2007 which is tendered in the Court today. In which inter alia it is

mentioned that the suit has been dismissed for non prosecution on 10/4/2006, it is therefore the submission of learned counsel that the present petition challenging the grant of interim injunction would not survive. In view of the said affidavit and the statement made in Para no. 3 thereof, the petition is dismissed as infructuous.

3) In case on an application filed by the respondent the suit is restored, the petitioner would be entitled to revive the present petition.

(R.M. SAVANT, J.)